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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SONY CORPORATION,

Plaintiff,

v.

VIZIO, INC.,

Defendant.

Case No. CV-08-01135 (RGK)(FMOx)

**DECLARATION OF STEVEN J.
CORR IN SUPPORT OF
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
VIZIO, INC.'S NOTICE OF
MOTION AND MOTION TO LIMIT
CLAIMS**

Date: August 31, 2009
Time: 9:00 A.M.
Judge: Hon. R. Gary Klausner
Courtroom: 850

1 I, Steven J. Corr, declare as follows:

2 1. I am an associate with Jones Day, counsel of record for Defendant
3 Vizio, Inc. (“Vizio”) in this action. I make this declaration in support of the
4 Memorandum of Points and Authorities in Support of Vizio, Inc.’s Notice of
5 Motion and Motion to Limit Claims. The following is based on my personal
6 knowledge and, if called as a witness, I could and would competently testify
7 thereto.

8 2. Exhibit 1 is a true and correct copy of the Civil Minutes – General
9 from *In re Katz Interactive Call Processing Patent Litigation*, Case No. 07-ML-
10 1816-RGK (FFMx), dated August 31, 2007.

11 3. Exhibit 2 is a true and correct copy of the unpublished decision in
12 *ReRoof Am., Inc. v. United Structures of Am., Inc.*, Nos. 98-1378, 98-1430, 1999
13 WL 674517 (Fed. Cir. Aug. 30, 1999).

14 4. Exhibit 3 is a true and correct copy of the unpublished decision in
15 *Kearns v. General Motors Corp.*, No. 93-1535, 1994 WL 386857 (Fed. Cir. July
16 26, 1994).

17 5. As of August 10, 2009, Sony has produced five claim charts that
18 allegedly match each and every claim limitation of U.S. Patent No. 6,778,182 (the
19 “‘182 patent”) to a corresponding element in the accused products. Sony produced
20 these claim charts on April 30, 2009, June 9, 2009, June 18, 2009, July 1, 2009 and
21 July 31, 2009. Sony’s first three claim charts for the ‘182 patent, the April 30, June
22 9 and June 18 claim charts, specifically relied on the same eleven pages of
23 documents, namely: SONY0001999, 2002, 2029, 2012, 2067, 2039, 4033, 32, 33,
24 3027 and 929. Sony also generally relied on Vizio user manuals produced at
25 SONY0000001-5631 without citing any specific page. On July 1, 2009, Sony
26 added an additional document, SONY0082324, in support of its infringement
27 contentions for claims 1, and 3-6. On July 31, Sony added four more pages,
28

1 V000016007, 11, 13 and 26 as alleged support for its infringement contentions with
2 respect to all six asserted claims.

3 6. As of August 10, 2009, Sony has produced five claim charts that
4 allegedly match each and every claim limitation of U.S. Patent No. 6,111,614 (the
5 “‘614 patent”) to a corresponding element in the accused products. Sony produced
6 these claim charts on April 30, 2009, June 9, 2009, June 18, 2009, July 1, 2009 and
7 July 31, 2009. Sony’s first three claim charts for the ‘614 patent, the April 30, June
8 9 and June 18 claim charts, specifically relied on the same forty-six pages of
9 documents, namely: SONY0002985, 2987, 2988, 2995, 3001, 3017, 3018, 3020,
10 3021, 3022, 3023, 3024-56, 2998 and 2994. Sony also generally relied on Vizio
11 user manuals produced at SONY0000001-5631 without citing any specific page.
12 On July 1, 2009, Sony added an additional document, “Sony Intellectual Property
13 Law Department, 3rd Party CTV Worksheet V.7, Make Model: Vizio VX37L,” as
14 alleged support for its claim 1 infringement contentions. On July 31, Sony added
15 two more pages, V000016025-26 as alleged support for its infringement
16 contentions with respect to all six asserted claims.

17 7. Exhibit 4 is a true and correct copy of a July 29, 2009 letter from
18 counsel for Sony to counsel for Vizio.

19 8. On July 29, 2009, the parties held a meet and confer regarding, *inter*
20 *alia*, limiting the number of asserted claims. Sony proposed a schedule for limiting
21 the number of asserted claims at two stages, first, after Sony was able to perform an
22 inspection of the accused products, and second, after Sony had an opportunity to
23 review source code. Sony did not propose firm dates for either of the suggested
24 limitations of the asserted claims. As of August 10, 2009, the parties continue to
25 negotiate the terms of Sony’s proposed product inspection, but have not reached a
26 date certain upon which the proposed product inspection shall take place.

27 9. During the July 29, 2009 meet and confer, Vizio asked whether Sony
28 would agree as a threshold matter to limit the number of asserted claims to three

1 asserted claims for each of the patents-in-suit, putting aside the question of a
2 particular time by which Sony would agree to so limit the asserted claims. Sony
3 was unwilling to agree to such a limitation. Vizio also asked whether Sony would
4 be willing to consider a global limit on the number of asserted claims, rather than a
5 per-patent number. Sony was unwilling to agree to this as well. Vizio then asked
6 Sony whether it would agree to limit the number of asserted claims to any reduced
7 number, but by a date certain. Sony was again unwilling to agree to this proposal.

8 10. In the July 29, 2009 meet and confer, Vizio asked Sony whether it
9 would waive the twenty day waiting period for filing this motion under C.D. Cal.
10 L.R. 7-3. Sony responded that it would consider the proposal and provide an
11 answer by the next day. Sony did not provide an answer the next day, July 30. On
12 August 3, Sony stated that it would be willing to waive the twenty day waiting
13 period if Vizio agreed to waive the meet and confer requirement for a motion Sony
14 was contemplating.

15 11. Vizio offered Mr. Ken Lowe, a Vizio engineer, for deposition for three
16 days in early July 2009. Mr. Lowe was unavailable for the deposition dates Sony
17 had requested in mid-June 2009. Sony rejected Vizio's proposed dates for Mr.
18 Lowe's deposition in early July 2009 and has not sought to reschedule Mr. Lowe's
19 deposition.

20 12. On April 30, 2009, Sony stated in response to Vizio's Interrogatory
21 No. 2 that "Sony does not believe that any of the claim terms in the patents-in-suit
22 require construction by the Court." Sony has not changed its position on that issue
23 since that time.

24 13. In the July 29, 2009 meet and confer, Sony suggested that it should
25 only be required to limit the number of asserted claims in the event that the parties
26 could reach an agreement regarding representative products. Vizio stated that it
27 would be willing to consider any representative products proposal that Sony would
28 offer. Sony did not make any concrete proposal regarding representative products

1 on July 29, 2009, or at any other point in time before or after that date.

2 14. Exhibit 5 is a true and correct copy of the July 17, 2009 Meet and
3 Confer Transcript recording the meet and confer between counsel for Vizio and
4 Sony Corporation regarding Sony's discovery responses.

5 Dated: August 10, 2009 JONES DAY

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7 By: /s/ Steven J. Corr
8 Steven J. Corr

9 Attorneys for Defendant Vizio, Inc.
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